



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR

### Introduction

This matter was conducted in response to a Landlord's Application for Direct Request for an Order of Possession and a Monetary Order for unpaid rent, pursuant to Section 55(4) of the *Residential Tenancy Act* (the "Act").

The Landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on January 12, 2015 the Tenant was served with the Notice of Direct Request by registered mail, pursuant to Section 89(1) (c) of the Act.

The Landlord provided a copy of the Canada Post tracking receipt as evidence for this method of service. Section 90(a) of the Act provides that a document is deemed to have been received five days after it is mailed. A party cannot avoid service through a failure or neglect to pick up mail or use this reason alone as grounds for a review. As a result, I find that the Tenant was deemed served with the documents on January 17, 2015.

### Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession for unpaid rent?  
Has the Landlord established a monetary claim against the Tenant for unpaid rent?

### Background and Evidence

The Landlord submitted the following evidentiary material:

- A copy of a residential tenancy agreement signed by the Landlord and the Tenant on July 1, 2014 for a tenancy commencing on the same date. Rent in the amount of \$925.00 is payable by the Tenant on the first day of each month;
- A copy of a two page 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the "Notice") issued on January 2, 2015 with an effective vacancy date of January 12, 2015 due to \$925.00 in unpaid rent due on January 1, 2015;

- A copy of the Proof of Service of the Notice which shows the Landlord served the Notice to an adult who apparently lives with the Tenant. The Landlord declares on the Proof of Service document that the Tenant's door was opened by both the adult and the Tenant who live together, at which point the Tenant asked the adult to deal with the Landlord; and
- The Landlord's Application for Direct Request made on January 12, 2015 claiming unpaid rent for January 2015.

### Analysis

I have reviewed the evidence and I accept that the Tenant was personally served with the Notice, which complied with the Act, in accordance with Section 88(e) of the Act.

I accept the evidence before me that the Tenant failed to dispute the Notice or pay the outstanding rent within the five days provided under Section 46(4) of the Act.

Therefore, I find that the Tenant is conclusively presumed under Section 46(5) of the Act to have accepted that the tenancy ended on the vacancy date of the Notice. As a result, the Landlord is entitled to an Order of Possession and a Monetary Order for the outstanding amount of rent claimed.

### Conclusion

For the reasons set out above, I hereby grant an Order of Possession in favor of the Landlord effective **2 days after service on the Tenant**. This order may then be filed and enforced in the Supreme Court as an order of that court.

I further grant a Monetary Order in the amount of **\$925.00** in favor of the Landlord pursuant to Section 67 of the Act. This order must be served on the Tenant and may be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: January 18, 2015

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Residential Tenancy Branch

